

Senate File 249 - Introduced

SENATE FILE 249

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(COMPANION TO HF 21 BY HUNTER)

A BILL FOR

1 An Act relating to the construction and maintenance of walkways
2 in railroad yards, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 327F.37 Railroad yard walkways —
2 penalty.

3 1. *Scope.* This section applies to all railroad tracks and
4 walkways in railroad yards in this state. This section does
5 not apply to tracks or walkways constructed in an industry yard
6 owned by an entity other than a railroad corporation.

7 2. *Definitions.* As used in this section, unless the context
8 otherwise requires:

9 a. *"Department"* means the state department of
10 transportation.

11 b. *"Frequently"* means at least one shift per day for
12 five days per week, or any other period the department deems
13 frequent enough to warrant an order pursuant to subsection 5.

14 c. *"Good cause"* includes but is not limited to a showing
15 that compliance with this section will impose an undue hardship
16 on the railroad corporation.

17 3. *Standard.* A railroad corporation shall provide walkways
18 adjacent to those portions of railroad yard tracks where
19 railroad employees frequently perform switching activities.

20 4. *General requirements and recommendations.*

21 a. (1) Walkways may be surfaced with asphalt, concrete,
22 planking, grating, native material, crushed material, or
23 other similar material. Where crushed material is used, one
24 hundred percent of the material shall be capable of passing
25 through a one and one-half inch square sieve opening, and not
26 less than ninety percent of the material shall be capable of
27 passing through a one-inch square sieve opening. A de minimus
28 variation from these requirements shall not be a violation
29 of this section in instances where the railroad corporation
30 has made a good-faith effort to comply with the percentage
31 requirements of this subparagraph.

32 (2) Crushed material smaller than that described in
33 subparagraph (1) shall be used whenever practicable, especially
34 in places where drainage and durability issues do not exist.
35 Material capable of passing through a three-fourths inch square

1 sieve opening or smaller is recommended for switching lead
2 tracks.

3 *b.* Walkways shall have a reasonably uniform surface and
4 be maintained in a safe condition without compromising track
5 drainage.

6 *c.* Cross slopes for walkways shall not exceed one inch of
7 elevation for each eight inches of horizontal length in any
8 direction.

9 *d.* Walkways shall be at least two feet wide.

10 *e.* Walkways shall be kept reasonably free of spilled fuel
11 oil, sand, posts, vegetation, nonballast rocks, and other
12 hazards or obstructions.

13 5. *Other tracks.* If the department finds, after notice
14 and hearing, that railroad employees who frequently perform
15 switching activities adjacent to a portion of track are exposed
16 to safety hazards due to the lack of a walkway or due to the
17 condition of a walkway constructed before July 1, 2019, the
18 department may do one of the following:

19 *a.* Order a railroad corporation to construct a walkway
20 adjacent to a portion of track where railroad employees
21 frequently perform switching activities.

22 *b.* Require a railroad corporation to modify an existing
23 walkway to conform with subsections 3 and 4 within a reasonable
24 period of time.

25 6. *Compliance.* A railroad corporation is excused from
26 complying with this section under the following circumstances:

27 *a.* During maintenance activities.

28 *b.* In the event of a derailment.

29 *c.* During periods of heavy rain, snow, or similar weather
30 conditions, and for a reasonable time after such conditions
31 subside to allow a return to compliance.

32 *d.* In the event of a rock slide, earth slide, washout, or
33 similar seismic conditions, and for a reasonable time after
34 such conditions subside to allow a return to compliance.

35 7. *Waiver.* A railroad corporation may petition the

1 department for a waiver of any provision of this section. The
2 department may grant a waiver of any provision of this section
3 where the railroad corporation shows good cause.

4 8. *Enforcement.*

5 a. A person alleging a violation of this section shall
6 attempt to address the allegation with the railroad corporation
7 by making a written complaint to the railroad corporation. No
8 later than thirty days after receiving the written complaint,
9 the railroad corporation shall respond in writing to the person
10 alleging the violation, describing what action, if any, the
11 railroad corporation intends to take to correct the alleged
12 violation. If the railroad corporation does not respond in
13 writing to the person alleging the violation within thirty days
14 of receiving the complaint, or does not correct the alleged
15 violation within ninety days of receiving the complaint, the
16 person may file a formal complaint with the department.

17 b. A formal complaint to the department shall contain a
18 copy of the written complaint made to the railroad corporation
19 under paragraph "a", and a copy of the railroad corporation's
20 written response, if any. No later than ten days after
21 receiving the formal complaint, the department shall send
22 written notification to the railroad corporation informing it
23 of the complaint and its duties under this paragraph. No later
24 than thirty days after receiving written notification, the
25 railroad corporation shall either correct the alleged violation
26 or contest the complaint. If the railroad corporation contests
27 the complaint, the department shall inspect the area of the
28 alleged violation. Upon inspection, if the department finds
29 that a violation exists, the department shall issue an order
30 requiring the railroad corporation to correct the violation
31 within thirty days of receipt of the order. Upon inspection,
32 if the department finds that a violation does not exist,
33 the department shall deny the complaint and send written
34 notification to the parties informing them of the denial.

35 c. A party to the complaint may appeal the department's

1 decision by filing an appeal with the department of inspections
 2 and appeals within ten days of being notified of the
 3 department's decision. The department of inspections and
 4 appeals shall render a decision on the appeal and notify the
 5 parties of the decision in writing no more than fifteen days
 6 after the appeal was filed. Judicial review of the decision
 7 of the department of inspections and appeals may be sought in
 8 accordance with chapter 17A.

9 9. *Penalty.* A railroad corporation who violates this
 10 section commits a "schedule one" violation punishable
 11 under section 327C.5. Each day a violation exists shall be
 12 considered a separate violation.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
 15 the explanation's substance by the members of the general assembly.

16 This bill establishes standards and requirements for the
 17 construction and maintenance of walkways in railroad yards.
 18 The provisions of the bill apply to all tracks and walkways in
 19 railroad yards in this state, but do not apply to tracks or
 20 walkways in an industry yard owned by an entity other than a
 21 railroad corporation.

22 The bill establishes a standard requirement for railroad
 23 corporations to provide walkways adjacent to portions of
 24 railroad yard tracks where railroad employees perform switching
 25 activities at least one shift per day for five days per week.

26 The bill provides recommendations and requirements for the
 27 type of material used for the walkways. In addition, the
 28 bill requires that walkways be at least two feet wide, with
 29 cross slopes of not more than one inch of elevation for each
 30 eight inches of length in any direction. Walkways must have
 31 a reasonably uniform surface, be maintained in safe condition
 32 without compromising track drainage, and be kept reasonably
 33 free of spilled fuel oil, sand, posts, vegetation, nonballast
 34 rocks, and other hazards and obstructions.

35 Following an administrative hearing, the department of

1 transportation (DOT) may order a railroad corporation to
2 construct a walkway or alter a preexisting walkway to conform
3 with the new requirements where the lack of a walkway or
4 the condition of a walkway poses a safety hazard to railroad
5 employees.

6 The bill excuses a railroad corporation from compliance with
7 walkway requirements during maintenance activities, in the
8 event of a derailment, during certain weather conditions, in
9 certain seismic conditions, and for a reasonable time after
10 such weather or seismic conditions subside to allow a return
11 to compliance.

12 The DOT may grant a waiver of any provision of the bill to a
13 railroad corporation upon a showing of good cause, including
14 but not limited to a showing that compliance with the bill will
15 impose an undue hardship on the railroad corporation.

16 A person who alleges a violation of the requirements of the
17 bill must address the allegation with the railroad corporation
18 by making a written complaint. If the railroad corporation
19 does not respond to the complaint within 30 days, or does
20 not resolve the alleged violation within 90 days, the person
21 may file a formal complaint with the DOT. The DOT shall
22 notify the railroad corporation of the complaint, and the
23 railroad corporation has 30 days in which to respond, either
24 by correcting the alleged violation or by contesting the
25 complaint. If the railroad corporation contests the complaint,
26 the DOT is required to inspect the area of the alleged
27 violation. Upon a finding that a violation exists, the DOT
28 must order the railroad corporation to correct the violation
29 within 30 days of receipt of the order. If, following the
30 inspection, the DOT finds that no violation exists, it must
31 notify the parties to the complaint that the complaint is
32 denied.

33 A party to the complaint may appeal the DOT's decision by
34 filing an appeal with the department of inspections and appeals
35 and judicial review of the decision of the department of

1 inspections and appeals may be sought according to Code chapter
2 17A (Iowa administrative procedure Act).

3 A violation of the bill's provisions is a schedule one
4 violation, punishable by a \$100 fine for each day a violation
5 exists.